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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,908	01/23/2004	Jason M. Benz	BUR920030121US1	1907
29154	7590 08/14/2006		EXAMINER	
FREDERICK W. GIBB, III GIBB INTELLECTUAL PROPERTY LAW FIRM, LLC			RUGGLES, JOHN S	
2568-A RIV		EAW THOM, ELC	ART UNIT	PAPER NUMBER
SUITE 304			1756	
ANNAPOLIS, MD 21401 DATE MAILED:		DATE MAILED: 08/14/2006	5	

Please find below and/or attached an Office communication concerning this application or proceeding.

				1)			
Office Action Summary		Application No.	Applicant(s)	- 27			
		10/707,908	BENZ, JASON M.				
		Examiner	Art Unit				
		John Ruggles	1756				
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the o	orrespondence address				
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DAY IN THE MAILING	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tiruly will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status							
1)⊠	Responsive to communication(s) filed on 6/13/	<u>06 &amp; 6/14/06</u> .					
2a)⊠	This action is <b>FINAL</b> . 2b) ☐ This action is non-final.						
3)[	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
	closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11, 4	53 O.G. 213.				
Disposit	ion of Claims						
4)⊠	Claim(s) <u>1-6,8-13 and 15-19</u> is/are pending in t	the application.					
	4a) Of the above claim(s) is/are withdrawn from consideration.						
5)	S) Claim(s) <u>none</u> is/are allowed.						
6)⊠	☑ Claim(s) <u>1-6,8-13 and 15-19</u> is/are rejected.						
-	Claim(s) is/are objected to.						
8)□	Claim(s) are subject to restriction and/or	r election requirement.					
Applicati	on Papers						
9)⊠	The specification is objected to by the Examine	r.					
10)🛛	The drawing(s) filed on 6/13/06 & 6/14/06 is/are	e: a)□ accepted or b)⊠ objecte	d to by the Examiner.				
	Applicant may not request that any objection to the	drawing(s) be held in abeyance. Se	∍ 37 CFR 1.85(a).				
_	Replacement drawing sheet(s) including the correct		• • • • • • • • • • • • • • • • • • • •				
11)[	The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.				
Priority ι	ınder 35 U.S.C. § 119						
a)(	Acknowledgment is made of a claim for foreign  All b) Some * c) None of:  1. Certified copies of the priority documents  2. Certified copies of the priority documents  3. Copies of the certified copies of the prior application from the International Bureau  See the attached detailed Office action for a list	s have been received. s have been received in Applicati rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage				
2)  Notic 3) Infor	t(s) e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date	4)  Interview Summary Paper No(s)/Mail Di 5)  Notice of Informal F 6)  Other:					

#### **DETAILED ACTION**

# Response to Amendment

In the submissions filed on 6/13/06, claims 1, 8, 13, and 15 have been currently amended, claims 2-6, 9-12, and 16-19 remain as originally filed, and claims 7, 14, and 20 have now been cancelled. Therefore, only claims 1-6, 8-13, and 15-19 are still pending and remain under consideration.

Applicant's proposed replacement drawings filed on 6/13/06 by fax and again in cleaner form on 6/14/06 electronically would address the reasons for the previous objections, but they are not in compliance with 37 CFR 1.121(d), because the proposed replacement sheets have not been labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)). Therefore, these proposed replacement drawings have not been entered and the previous drawings objections are maintained, as shown below.

The proposed amendments to the specification, including the abstract, would also address the specifically exemplified reasons for the previous objections, but this section of Applicant's submission on 6/13/06 is also non-compliant under 37 CFR 1.121 because the proposed amended abstract has not been presented on a separate sheet (as required by 37 CFR 1.72(b)). Therefore, the proposed specification section of the current amendment, including the abstract, has not been entered and the previous specification objections are maintained, as set forth below.

The previous objection of claims 13-14 is withdrawn in view of the current amendment and accompanying remarks, as stated below.

The previous art rejections under 35 USC 102(b), 102(e), and 103(a) are re-written below as necessitated by Applicant's current claim amendments and are therefore now made FINAL.

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### **Drawings**

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the original drawings are informal and are also objected to for at least the reasons set forth below. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Figures 1A-3B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. Paragraph [0018] indicates that the instant invention is an improvement on the methodology illustrated by Figures 1A-3B (even if this methodology is not necessarily well known). See MPEP § 608.02(g). The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are further objected to because the position of the recessed phase shifting (PS) opening 114 and non-PS opening 116 in the top view of Figure 7A are reversed with each other and do not correspond to their respective positions in the cross-sectional view of Figure 7B, which is taken from Figure 7A along line X-X' (as described in paragraphs [0015] and [0022]). Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or

figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

# Specification

The abstract of the disclosure is objected to because: (1) in lines 3-4, "the transparent quartz substrate" should be changed to --[[the]] <u>a</u> transparent quartz substrate-- and it is further suggested that (2) in line 9, "substrate that is adjacent the first region" should be changed to -- substrate that is adjacent <u>to</u> the first region--. Correction is required. See MPEP § 608.01(b).

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms, which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: (1) in paragraphs [0006] and [0023], the terms "TAT" and "RPT" have not been defined nor fully enabled; (2) in [0007] line 8, "not of limitation" should be changed to --not by way of limitation--; and (3) in [0019] lines 8 and 11, "additional masking an etching" (in line 8) should be corrected to --additional masking and etching-- and "through portion 100 the shifted 180

degrees" (in line 11) should also be corrected (e.g., to --through portion 100 [[the]] <u>is</u> shifted 180 degrees--, etc.). Note that due to the number of errors, those listed here are merely <u>examples</u> of the corrections needed and do <u>not</u> represent an exhaustive list thereof.

Appropriate correction is required. An amendment filed making all appropriate corrections must be accompanied by a statement that the amendment contains no new matter and also by a brief description specifically pointing out which portion of the original specification provides support for each of these corrections.

## Claim Objections

The previous objection of claims 13-14 is withdrawn in view of the current amendment and accompanying remarks.

# Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

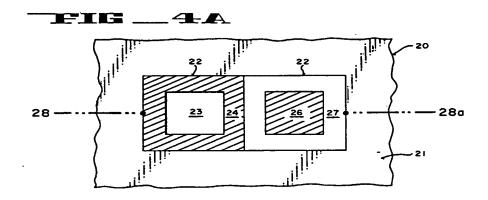
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

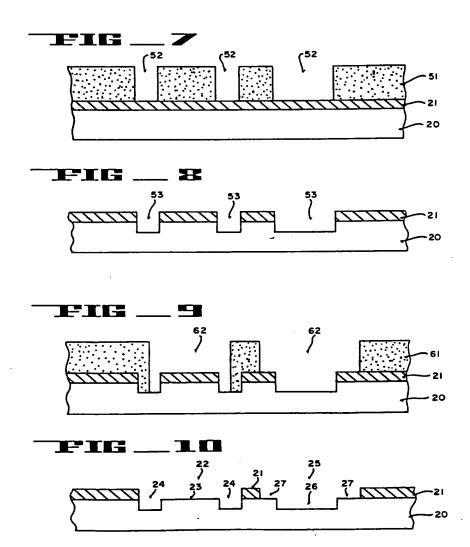
Claims 1-6 and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Dao et al. (US 5,302,477).

Dao et al. Figures 4A and 7-10 have been reproduced below for Applicant's convenience.

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Dao et al. teach an inverted phase-shifted reticle or mask (PSM) having adjacent inverted phase features with PS rims or phase edges between 0° and 180° phase features; and methods of fabricating the PSM (title, abstract). The methods of fabricating the PSM include performing first patterning or etching of an opaque chrome (Cr) mask layer 21 (instant claims 4 and 18) formed on a transparent quartz substrate 20 (as shown in Figure 7, instant claim 5) to expose a first region of the transparent substrate 20, which is etched to form a PS region 53 first opening (Figure 8, which also corresponds to 24 in Figures 10 and 4A). This is followed by performing additional second patterning or etching of the opaque Cr layer to expose an adjacent second region 27 of the transparent substrate to enlarge the first opening formed in the first region 24 (instant claims 2 and 16) over a continuous area of the transparent quartz substrate (as shown in Figure 4A, which clearly depicts Figure 10 without any Cr between directly adjacent first region 24 and second region 27, col. 8 line 46 to col. 9 line 13, instant claims 3 and 17). In the PSM shown by Figure 4A, a first (etched PS) rectangular region 24 is directly adjacent to a second (unetched non-PS) rectangular region 27, in which both the first rectangular region 24 and the second rectangular region 27 are similarly shaped and sized (col. 5 line 67 to col. 8 line 3, instant claims 1, 6, 15, and 19).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6 and 15-19 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schroeder et al. (US 2003/0027057).

Schroeder et al. teach a phase shift mask 400 (PSM) and method of manufacturing the PSM (abstract). Figure 6A shows a PSM 400 having a transparent quartz substrate 402 (instant claim 5) with a first etched region 458 or 454 for a 180° phase (shift, PS) feature and an adjacent second unetched region 460 or 456 for a 0° phase (non-PS) feature next to an overlying patterned opaque chrome (Cr) layer 404 (paragraphs [0041]-[0047], instant claim 4). In the method of manufacturing the PSM, the opaque layer is preferably formed on the transparent substrate and patterned before etching of the underlying transparent substrate. Alternatively, the opaque layer can be patterned after etching the transparent substrate [0043]. The method for making the PSM in Figure 6A would be expected to involve first patterning of an opening in the opaque layer, etching of the underlying transparent substrate at a first region 458 or 454 through the opening in the opaque Cr mask layer (instant claim 18), and additional patterning of the opaque layer to enlarge the opening (instant claims 2 and 16) that forms a second adjacent (non-PS) region 460 or 456, both PS and non-PS regions are formed over a continuous area of the transparent quartz substrate (instant claims 3 and 17). Figure 6B illustrates a top view of the PSM in Figure 6A that shows parallel lines for phase edge 452 between PS 458 and non-PS 460, as well as the adjacent edge of the patterned opaque Cr layer 404. These lines can extend only partially across the length of the mask 400 [0048], which is consistent with a rectangular first region 458 and an adjacent rectangular second region 460 having a similar shape. Even though the apparent width of non-PS region 460 in Figures 6A and 6B appears to be narrower than the adjacent PS region 458, non-PS region 456 on the other side of adjacent PS region 458 appears to have the same or similar width or size as the adjacent PS region 458. Also, PS region 454 appears to have the same or similar width or size as non-PS region 460. Therefore, this process is inherently capable

of producing adjacent PS and non-PS regions that have similar shape and size (instant claims 1, 6, 15, and 19).

Claims 1-6 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Dao et al. (US 5,302,477) or Schroeder et al. (US 2003/0027057) in view of either Levenson (US 6,251,549) or Rolfson (US 6,395,432).

While teaching other aspects of the instant claims, neither Dao et al. nor Schroeder et al. specifically teach a method of forming a PSM having adjacent first and second similarly shaped and sized rectangular 0° and 180° phase features or regions in the particular configuration shown by instant Figure 5A or instant Figure 6A (as specific examples of instant claims 1-6 and 15-19).

However, the particular configuration shown by instant Figure 5A or instant Figure 6A for a PSM having book-matched adjacent first and second similarly shaped and sized rectangular 0° and 180° phase features or regions is well known in the art of making PSMs, as exemplified by either Levenson (Figures 9-11, col. 6 lines 53-61) or Rolfson (Figure 12, col. 6 lines 28-36). So, it would have been obvious to one of ordinary skill in the art at the time of the invention in the methods of forming PSMs having adjacent first and second PS regions taught by either Dao et al. or Schroeder et al. to form these adjacent first and second PS regions in a book-matched configuration of similarly shaped and sized rectangular 0° and 180° phase features or regions (as taught by either Levenson or Rolfson), just as exemplified by instant Figures 5A or 6A, in order to achieve a corresponding desired imaged pattern through such a PSM (*instant claims 1-6 and 15-19*).

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Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Dao et al. (US 5,302,477) or Schroeder et al. (US 2003/0027057) in view of Tzu et al. (US 5,888,678).

While teaching other aspects of the instant claims, neither Dao et al. nor Schroeder et al. specifically teach forming additional third regions that are devoid of PS features (*instant claims* 8-13).

Tzu et al. teach a PSM having separate PS mask patterns and non-PS binary mask patterns on the same mask substrate, as well as a method of forming this PSM (title, abstract). Formation of the PS mask patterns and binary mask patterns on the same transparent mask substrate increases throughput and decreases cost in the fabrication of integrated circuit wafers (abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention in the methods of forming PSMs having adjacent rectangular first and second PS regions that are similarly shaped and sized (as taught by either Dao et al. or Schroeder et al.) to form additional third binary mask pattern regions that are devoid of PS features on the same transparent mask substrate, in order to increase throughput and decrease cost in the fabrication of integrated circuit wafers (as taught by Tzu et al., *instant claims 8-13*).

Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Dao et al. (US 5,302,477) or Schroeder et al. (US 2003/0027057) in view of Tzu et al. (US 5,888,678), and further in view of either Levenson (US 6,251,549) or Rolfson (US 6,395,432).

While teaching other aspects of the instant claims, none of Dao et al., Schroeder et al., nor Tzu et al. specifically teach a method of forming a PSM having adjacent first and second similarly shaped and sized rectangular 0° and 180° phase features or regions in the particular

configuration shown by instant Figure 5A or instant Figure 6A (as specific examples of instant claims 8-13).

However, the particular configuration shown by instant Figure 5A or instant Figure 6A for a PSM having book-matched adjacent first and second similarly shaped and sized rectangular 0° and 180° phase features or regions is well known in the art of making PSMs (as exemplified by either Levenson or Rolfson and discussed above). So, it would have been obvious to one of ordinary skill in the art at the time of the invention in the methods of forming PSMs having adjacent first and second PS regions and separate additional third binary mask pattern regions that are devoid of PS features on the same transparent mask substrate (as taught by either Dao et al. or Schroeder et al. in combination with Tzu et al.) to form the adjacent first and second PS regions in a book-matched configuration of similarly shaped and sized rectangular 0° and 180° phase features or regions (as taught by either Levenson or Rolfson), just as exemplified by instant Figures 5A or 6A, in order to achieve a corresponding desired imaged pattern through such a PSM (instant claims 8-13).

#### Response to Arguments

Applicant's arguments with respect to claims 1-6, 8-13, and 15-19 have been considered but are either unpersuasive or moot in view of the newly revised ground(s) of rejection, as necessitated by amendment.

Throughout the arguments on pages 9-18 of 19 in the amendment filed on 6/13/06, Applicant seems to have been confused regarding the order of process steps taught by Dao et al. for forming a PSM having a first PS region 24 (shown as 53 in Figure 8) and a subsequently formed second non-PS region 27 directly adjacent to 24 (as shown in Figure 4A), in which both

24 and 27 are rectangular regions with similar shape and size to each other. The teachings of Dao et al. have been further clarified above by a detailed description of these teachings, including copied images of corresponding Figures 4A and 7-10 from Dao et al. for Applicant's convenience. Applicant is specifically called upon to acknowledge that in Figure 4A there is no Cr covered region 21 at all between the first earlier formed PS region 24 and the second later formed non-PS region 27 (so that 24 and 27 are directly adjacent to each other without any separation in between them, as clearly illustrated in Figure 4A). Applicant's further description of Figures 11-25 on page 12 of 19 appear to be entirely irrelevant, because these other embodiments were not previously relied upon and are still not relied upon by the Examiner in the rejections set forth above.

In response to the argument on page 13 of 19 regarding Figures 6A and 6B taught by Schroeder et al., the mere apparent difference in width or size between PS region 458 and non-PS region 460 does not exclude this reference from consideration. This is particularly true because non-PS region 456 on the other side of adjacent PS region 458 appears to have the same or similar width or size as the adjacent PS region 458. Also, PS region 454 appears to have the same or similar width or size as non-PS region 460. Therefore, the process of making a PSM taught by Schroeder et al. is shown to be inherently capable of producing adjacent PS and non-PS regions that have similar shape and size. Applicant cannot distinguish the instant invention over this reference merely on the basis of apparent dimensions in these prior art figures, which are not necessarily drawn to scale, because Applicant has not shown any particular portion of the corresponding prior art description that limits these teachings to have particular relative

dimensions. Furthermore, the instant placement of PS features on a PSM appears to only be a matter of design choice, absent a showing of criticality.

On pages 13-14 of 19, Applicant tries to distinguish the instant invention from Levenson's Figure 16 illustrating different sizes and shapes for active device areas 160 and 162 of a silicon (semiconductor) device and Figure 25 showing separation between PS areas 256 on a generic substrate. However, the semiconductor device patterns of Figure 16 cannot be equated to a PSM and neither this nor the embodiment of Figure 25 have been relied upon by the Examiner in any of the previous rejections nor those set forth above in this Office action (since they are both believed to be irrelevant). In fact, Applicant has failed to even address the actual portions of Levenson cited by the Examiner (Levenson Figures 9-11, col. 6 lines 53-61).

Similarly on page 14 of 19, Applicant argues against different portions of Rolfson than were cited by the Examiner and further fails to address any of the portions that were actually relied upon in either the previous rejections or those set forth above in this Office action (Rolfson Figure 12, col. 6 lines 28-36).

In response to Applicant's argument on page 14 of 19 that Rolfson fails to show all the instantly claimed process limitations (most of which are taught by other prior art references as discussed above), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference(s); nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). For example, on pages 15-18 of 19 Applicant points out ways in which Tzu alone differs from the instant invention, but fails to recognize the reason why Tzu was cited by the Examiner in combination with one or more other reference(s). Both this reason and the supporting motivation for combining this reference were previously stated and are again repeated above.

This action is made FINAL.

#### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Ruggles whose telephone number is 571-272-1390. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jsr

S. ROSASCO PRIMARY EXAMINER

Cossio

